

House File 2671 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 2446)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to illegal aliens of the United States including
2 restricting the allocation of housing trust fund moneys,
3 prohibiting the servicing of first mortgages, relating to
4 employment, and providing for penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 6023HV 81
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1 1 Section 1. Section 16.181, Code 2005, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 3A. Funds allocated from the housing
1 4 trust fund shall not be used for the provision of rental
1 5 housing for persons who are not lawfully present in the United
1 6 States. This subsection does not apply to funds allocated to
1 7 homeless shelters.

1 8 Sec. 2. NEW SECTION. 91F.1 DEFINITIONS.

1 9 As used in this chapter:

1 10 1. "Commissioner" means the labor commissioner.

1 11 2. "Employee" means a natural person who is employed in
1 12 this state for wages paid on an hourly basis by an employer.

1 13 3. "Employer" means a person, as defined in section 4.1,
1 14 who in this state employs for wages, paid on an hourly basis,
1 15 one or more natural persons. An employer does not include a
1 16 client, patient, customer, or other person who obtains
1 17 professional services from a licensed person who provides the
1 18 services on a fee service basis or as an independent
1 19 contractor, or the state, or an agency or governmental
1 20 subdivision of the state.

1 21 4. "Unauthorized alien" means a person who is not lawfully
1 22 present in the United States.

1 23 Sec. 3. NEW SECTION. 91F.2 UNAUTHORIZED ALIENS ==
1 24 EMPLOYER PROHIBITION.

1 25 An employer shall not knowingly employ as an employee an
1 26 unauthorized alien. For purposes of this section, "knowingly
1 27 employ as an employee an unauthorized alien" means an employer
1 28 has actual knowledge that a person is an unauthorized alien
1 29 and employs the person as an employee. An employer who
1 30 obtains a verification of employment eligibility form required
1 31 by the federal Immigration Reform and Control Act of 1986, 8
1 32 U.S.C. } 1324a, shall not be considered in violation of this
1 33 chapter.

1 34 Sec. 4. NEW SECTION. 91F.3 PENALTIES.

1 35 1. An employer who violates section 91F.2 is subject to a
2 1 civil penalty of up to one thousand dollars.

2 2 2. A corporate officer of an employer who, by knowingly
2 3 directing the repeated violation of section 91F.2,
2 4 demonstrates a pattern of employing unauthorized aliens
2 5 commits a serious misdemeanor.

2 6 3. An employer who, through repeated violation of section
2 7 91F.2, demonstrates a pattern of employing unauthorized aliens
2 8 may be ordered to pay punitive damages.

2 9 Sec. 5. NEW SECTION. 91F.4 DUTIES AND AUTHORITY OF THE
2 10 COMMISSIONER == ENFORCEMENT BY ATTORNEY GENERAL.

2 11 1. The commissioner shall adopt rules to implement and
2 12 enforce this chapter.

2 13 2. In order to carry out the purposes of this chapter, the
2 14 commissioner or the commissioner's representative, upon
2 15 presenting appropriate credentials to an employer's owner,

operator, or agent in charge, may:

- a. Inspect employment records relating to the employees of the employer.
- b. Interview an employer, owner, operator, agent, or employee, during working hours or at other reasonable times.

3. If the commissioner has reason to believe than an employer may be in violation of this chapter, the commissioner shall notify the attorney general, and provide the attorney general with any supporting information, for prosecution of the violation by the attorney general.

Sec. 6. NEW SECTION. 91F.5 PROHIBITIONS RELATING TO CERTAIN ACTIONS BY EMPLOYEES == PENALTY == CIVIL REMEDY.

1. An employer shall not discharge an employee or take or fail to take action regarding an employee's appointment or proposed appointment or promotion or proposed promotion, or regarding any advantage of an employee as a reprisal for a failure by that employee to inform the employer that the employee made a disclosure of information to any law enforcement agency if the employee reasonably believes the information evidences a violation of section 91F.2.
 2. Subsection 1 does not apply if the disclosure of the information is prohibited by statute.
 3. An employer who violates subsection 1 commits a simple misdemeanor.
 4. Subsection 1 may be enforced through a civil action.
- a. An employer who violates subsection 1 is liable to an aggrieved employee for affirmative relief, including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.
- b. If an employer commits, is committing, or proposes to commit an act in violation of subsection 1, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the attorney general.
5. An employer shall not discharge an employee or take or fail to take action regarding an employee's appointment or proposed appointment or promotion or proposed promotion, or regarding any advantage of an employee, or make a report regarding the status of the employee as an unauthorized alien to any federal department or agency as a reprisal against an employee that made a report to a law enforcement agency that the employee has been a victim of sexual abuse or sexual harassment by another employee of the employer. A law enforcement agency that accepts a report of sexual abuse or sexual harassment as described in this subsection shall not make a report regarding the status of the victim as an unauthorized alien to any federal department or agency.

Sec. 7. NEW SECTION. 535B.11A MORTGAGES TO PERSONS UNLAWFULLY PRESENT.

A licensee or other mortgagee shall not knowingly originate a first mortgage loan for residential real estate located in this state on or after July 1, 2007, that is intended to be used as a primary residence in this state of a person who is not lawfully present in the United States. The enforcement provisions of section 535B.13 shall not apply to a violation under this section. The attorney general may file an action for injunctive relief against a licensee or other mortgagee who violates this section. A licensee or other mortgagee who complies with the customer identification program requirements under 31 U.S.C. } 5318(l) shall not be considered in violation of this section.

If a person who has agreed to buy residential real property is denied a first mortgage loan pursuant to this section and cannot otherwise comply with the terms of the agreement, the seller of the property shall be entitled to any earnest money or other trust funds held by a real estate broker pursuant to section 543B.46 paid by the person or on behalf of the person pursuant to the agreement.

HF 2671
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